

**REMARKS**

Entry of the foregoing, reexamination and reconsideration of the subject application are respectfully requested in light of the amendments above and the comments which follow.

As correctly noted in the Office Action Summary, claims 1-7 were pending. By the present response, claims 1-5 and 7 have been amended and claims 8-14 added. Thus, upon entry of the present response, claims 1-14 remain pending and await further consideration on the merits.

Support for the present claim amendments can be found, for example, in at least the following portions of the disclosure: Figs. 1 and 2 and paragraphs [0026], [0027] and [0032].

***CLAIM REJECTIONS UNDER 35 U.S.C. §103***

Claims 1-7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,761,294 to Hamann et al. (hereafter "*Hamann et al.*") in view of U.S. Patent No. 4,927,653 to Manvell (hereafter "*Manvell*"), U.S. Patent No. 5,374,437 to Lagares Corominas (hereafter "*Lagares Corominas*"), and U.S. Patent No. 5,229,154 to Street (hereafter "*Street*") on the grounds set forth on pages 2-4 of the Official Action. For at least the reasons noted below, this rejection should be withdrawn.

The present invention is directed to a process for preparing French fried potato products. The process gives a pre-fried potato product extended shelf life at refrigeration temperatures. Figure 1 illustrates an exemplary primary process 100 for obtaining frozen,

par-fried potato pieces. The various process steps result in a par-fried product which is frozen below 24°F and stored in bulk totes until secondary processing and packaging 118. In the Figure 2 example, a secondary process 200 singulates frozen bulk product 202 and processes the bulk product in a clean room environment 300. In the clean room environment, the process includes pasteurizing the outer surface in an impingement oven 204, freezing the pasturized product 206, weighing and packaging 208, and evacuating and flushing the packaging with a prescribed gas mixture of oxygen, carbon dioxide, and nitrogen 210. The package is then passed out of the clean room and held frozen until shipment 214.

As disclosed in the specification at paragraph [0003] prior attempts in the art of producing refrigerated potato product having extended shelf life and excellent flavor and texture qualities upon reconstitution have not been successful. Thus, the exemplary primary process 100 and secondary process 200 has advantageously provided a par-fried frozen or refrigerated potato product having extended shelf life at refrigerated temperatures. Further, and as discussed at paragraph [0027], the secondary process assists in inventory control, realistic shelf life date coding and in off-site processing, while also reducing microbial populations on finished product. For example, the primary process 100 can be separate in time and location from secondary process 200, e.g., at two separate facility sites or at two distinct locations at the same facility site. This separation time between the primary process 100 and the secondary process 200 can vary and can provide with the frozen par-fried product with an enhanced shelf life.

The foregoing features are broadly encompassed by independent claims 1 and 7. Independent claim 1 recites that a method of preparing French fried potato pieces includes obtaining frozen, par-fried potato pieces, storing the frozen par-fried potato pieces, and surface pasteurizing the potato pieces in a pasteurization apparatus having an exit into a clean room environment. Independent claim 7 recites that a method of preparing French fried potato pieces includes obtaining frozen, par-fried potato pieces, storing the frozen par-fried potato pieces, and surface pasteurizing the potato pieces in a pasteurization apparatus having an exit into a clean room environment. The surface pasteurizing provides at least one final microbial count as recited in claim 7.

In contrast and as noted in the Office Action at page 2, *Hamann et al* is silent with respect to the pasteurizing apparatus having an exit into a clean room environment, as recited in claim 1, and with respect to a particular final bacterial count as recited in claim 7. In addition, *Hamann et al.* does not teach, disclose, or suggest storing the frozen par-fried potato pieces as recited in claims 1 and 7. The specification at paragraph [0027] discusses the uses of the exemplary secondary process. These include aiding inventory control (see new claim 14), off-site processing abilities (see new claim 13) and the reduction of microbial populations on finished product (see claim 7).

In view of the deficiencies in *Hamann et al.*, the Office Action relies on the disclosures in *Manvell*, *Lagares Corominas*, and *Street*. However, the combination of the cited references, either alone or in combination, does not teach, disclose, or suggest Applicants' independent claim 1 or independent claim 7. For example, neither *Manvell*,

*Lagares Corominas*, or *Street* disclose storing the par-fried potato pieces during their process.

In addition, there is no motivation to combine the disclosure in *Manvell* with the other cited references, as *Manvell* expressly teaches away from any freezing process. *Manvell* describes disadvantages of freezing and describes aseptic packaging as an alternative to freezing. See, column 2, lines 1-44. *Manvell* also discloses cooling to ambient temperatures in cooling unit 26 (column 4, lines 56-57) and storing and distributing at ambient temperatures without freezing (column 6, lines 37-39). Thus, one of ordinary skill in the art would not have considered the disclosure in *Manvell* for a process that includes freezing because *Manvell* expressly teaches away from any freezing in his process.

In summary, there is no disclosure, teaching or suggestion in the disclosures of *Hamann et al.*, *Manvell*, *Lagares Corominas*, or *Street* regardless of whether these documents are considered individually or in combination for a method of preparing French fried potato pieces as presented in Applicants' independent claim 1 and claim 7. Further, there is no motivation to combine *Manvell* with the other cited references. Accordingly, independent claims 1 and 7 are allowable. The remaining claims depend from independent claim 1 or 7 and recite additional advantageous features which further distinguish over the cited references. These dependent claims are also considered allowable.

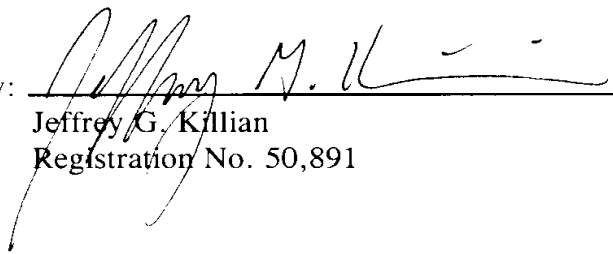
**CONCLUSION**

From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Should the Examiner feel that any issues remain, it is requested that the undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expedited.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: \_\_\_\_\_

  
Jeffrey G. Killian  
Registration No. 50,891

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620

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**Attachment to Amendment dated January 29, 2003**

**Marked-up Claims 1-5 and 7**

1. (Amended) A method of preparing French fried potato pieces comprising the steps of:  
  
obtaining [chilled] frozen, par-fried potato pieces;  
  
storing the frozen par-fried potato pieces; and  
  
surface pasteurizing the potato pieces in a pasteurization apparatus having an exit into a clean room environment.
  
2. (Amended) A method in accordance with Claim 1, wherein the [surface pasteurizing step comprises surface pasteurizing in a] pasteurization apparatus is selected from the group consisting of an impingement oven, a steam tunnel, an ultra violet light tunnel, and radurization equipment.
  
3. (Amended) A method in accordance with Claim 1, further comprising:  
  
chilling the potato pieces in a clean room environment after the step of surface pasteurizing the potato pieces [in a pasteurization apparatus].

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4. (Amended) A method in accordance with Claim 1, further comprising:  
aseptically packaging the potato pieces in a clean room environment after the  
step of surface pasteurizing the potato pieces [in a pasteurization apparatus].

5. (Amended) A method in accordance with Claim 1, further comprising:  
packaging the potato pieces in a modified atmosphere in a clean room  
environment after the step of surface pasteurizing the potato pieces [in a pasteurization  
apparatus].

7. (Amended) A method of preparing French fried potato pieces comprising  
the steps of:  
obtaining [chilled] frozen, par-fried potato pieces;  
storing the frozen par-fried potato pieces; and  
surface pasteurizing the potato pieces in a pasteurization apparatus having an  
exit into a clean room environment, the surface pasteurizing providing at least one final  
microbial count selected from the group consisting of:

- less than 1.0-3.0 log CFU/g aerobic plate count;
- less than 1.0 to 1.0 log CFU/g coliforms;
- less than 1.0 to 1.0 log CFU/g *Escherchia coli*;
- less than 1.0 to 1.0 log CFU/g *Staphylococcus aureus*;

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less than 1.0 to 1.0 log CFU/g molds; and

less than 1.0 to 1.0 log CFU/g yeasts;

wherein the potato pieces are negative for *Listeria monocytogenes*,

*Salmonella*, *Clostridium botulinum*, *Escherichia coli* O157:H7, and *Staphylococcus aureus*.